

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of	)	
	)	ET Docket No. 05-24
Requirements for Digital Television	)	
Receiving Capability	)	
	)	

**REPLY COMMENTS OF  
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION**

**I. INTRODUCTION**

Philips Electronics North America Corporation (“Philips”)<sup>1</sup> respectfully submits these Reply Comments to the Commission’s proposals in the *Further Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>2</sup> In its Comments, Philips explained why accelerating the final DTV tuner deadline at this late date, in addition to the four month acceleration adopted in June for mid-sized television sets, would exceed manufacturers’ capabilities and result in unacceptable risk to quality and reliability, unnecessary price increases for consumers, and

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<sup>1</sup> Philips manufactures and distributes a wide variety of world-class consumer electronics products that use digital technologies, including digital television receivers and associated equipment. Our interest in this proceeding is to ensure that products with digital broadcast reception capability replace those with only analog capability in a rapid and orderly fashion that avoids dislocations and disruptions in the highly competitive consumer marketplace.

<sup>2</sup> *Requirements for Digital Television Receiving Capability*, Report and Order and Notice of Proposed Rulemaking, ET Docket No. 05-24, 20 FCC Rcd 11169 (2005) (“*Report and Order*” or “*Further Notice*”).

reduced availability of some products on retail shelves. Other commenting manufacturers and retailers universally agreed.<sup>3</sup>

Commenters favoring a last-minute acceleration of the deadlines do not take issue with the impossibility of complying on such short notice with the proposed new deadline for so many products, but rather, argue generally that the DTV transition will be served by having an earlier deadline for television sets in the marketplace with DTV tuners.<sup>4</sup> These commenters generally ignore the widely published reports that Congress this year is expected to extend the DTV transition deadline by two or more years, changing the unrealistic expectation that analog broadcasts might cease at the end of 2006 and, not coincidentally, removing any justification for accelerating the final DTV tuner mandate deadline. Under the current schedule all television sets with tuners will be required to have digital capability by a comfortable 18 or more months before even the earliest projected deadline to end to the transition.

In its Comments, Philips offered that moving the deadline for 13"- 24" television sets from July 1, 2007, to March 1, 2007, is possible without creating inordinate disruption in the marketplace. This is just two months later than the Commission's proposed date of December 31, 2006. But if the Commission is going to adopt an accelerated March 1, 2007 deadline, it is essential that it do so no later than in September or October of this year so that there is sufficient advance notice to all manufacturers and retailers. Moreover, Philips agreed with broadcasters that it would be reasonable to apply the digital reception mandate to television

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<sup>3</sup> See Comments of the Consumer Electronics Association and Consumer Retailers Association ("CEA/CERC"), Sharp Electronics Corporation ("Sharp"), and TiVo Inc. ("TiVo").

<sup>4</sup> See Comments of the National Association of Broadcasters and the Association for Maximum Service Television ("NAB/MSTV"), Motorola, Inc. ("Motorola") and The Walt Disney Company ("Disney").

sets smaller than 13 inches that are intended to receive over-the-air broadcasts. Philips does not support any change to the current deadline for other television products with tuners, such as DVD recorders and VCRs, because it would be impossible to accelerate production for those products at the same time that substantial resources would be needed to accelerate work on all of the 13"-24" television set models.

## **II. ADVANCING THE DEADLINE BY WHICH TELEVISION RECEIVERS MUST INCLUDE DTV TUNERS TO A DATE EARLIER THAN MARCH 1, 2007, IS NOT FEASIBLE**

For the reasons demonstrated by Philips, TiVo, CEA/CERC and Sharp in their Comments, at this late date it would be impossible to meet a deadline of December 31, 2006 or earlier for all television equipment with over-the-air tuners. Doing so just is not commercially reasonable, and would invite consumer dissatisfaction with price and quality. Recognizing that designs for some products are farther along than others, Philips suggested that manufacturers of television sets 13" and larger might be able to meet a March 1, 2007, deadline if all other peripheral equipment with tuners, such as DVD recorders and VCRs, continue to be subject to the original July 1, 2007 deadline.

### **A. It Would be Impossible to Meet An Earlier Deadline in Any Commercially Reasonable Manner**

As Philips and others pointed out in their Comments, the resources necessary to redesign, test, and manufacture television sets with over-the-air digital reception capability already are more than fully employed to meet the existing 2005 and 2006 tuner mandate deadlines. Accelerating the last of the mandate deadlines at this late date would create unacceptable risks to product quality, result in extra cost to consumers that otherwise would be avoidable, and threaten

to create shortages of certain products in the marketplace that would impede, rather than accelerate, the overall digital transition.

It is noteworthy that even the advocates of an earlier deadline fail to marshal any factually-based arguments that a deadline of December 31, 2006 or earlier is in any way feasible for manufacturers. Motorola, for example, argues that the 700 MHz spectrum now occupied by analog broadcasters needs to be cleared promptly,<sup>5</sup> which is an objective with which we agree. But the manufacture of DTV receiver chips is vastly different from completely redesigning the final product, the digital television receiver, that will use them. Another chip manufacturer, ATI Technologies, correctly recognizes that the ability of chip manufacturers like ATI (and Motorola) to provide chips “addresses only a portion of the issues that the Commission must analyze.... The Commission must also consider additional issues such as the time and costs involved in the redesign of existing engineering plans and manufacturing processes, as well as the logistical, distribution, and marketing hurdles that an earlier date would create.”<sup>6</sup>

As CEA/CERC and Philips explained in their Comments, adding a digital tuner to an analog set requires a complete redesign of the chassis hardware and new software.<sup>7</sup> After the design is completed, production scheduling and operational considerations require that the start of production for the new products be staggered. These schedules already have been planned based on the deadlines established by the Commission in 2002.<sup>8</sup> It is too late to make the

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<sup>5</sup> See Comments of Motorola at 4.

<sup>6</sup> See Comments of ATI Technologies at 4.

<sup>7</sup> See Comments of CEA/CERC at 11-12 and Philips at 4-5.

<sup>8</sup> See Comments of Sharp at 2.

substantial changes proposed by the Commission as it would be impossible to move up the deadlines for all of the multiple models and products that are subject to the final deadline. Partial model lines may be introduced, but even for these it would be very difficult to impossible to conduct the full array of quality assurance and control procedures that normally are applied to these devices.

The result of unreasonably accelerating the deadline therefore could be a shortage in certain set sizes and a higher than normal failure rate. While it is easy for those who do not design, manufacture and market television sets to argue mistakenly that it is a simple process that can be accelerated without consequences, such is not the case. In this proceeding, manufacturers have set out the facts and offered alternatives. The 18-24 month manufacturing cycle required for consumer equipment of this nature, long recognized by the Commission and Congress alike,<sup>9</sup> is absolutely necessary to produce new highly reliable products. Anything that results in consumer dissatisfaction with the new digital sets certainly is NOT what the Commission intends and would not serve to accelerate the end of the transition.

There is only two months difference between the March 1, 2007 date for 13"-24" sets that Philips and CEA/CERC suggested and the December 31, 2006 date proposed by the Commission; and only 4 months' difference with November 1, 2006, the earliest date mentioned by any commenter. In considering the unreasonableness of the 2006 dates, the Commission must recognize that there is only a 2-4 months difference, not years, between the proposals; and that while the 2-4 months is critical to the reliable design and successful introduction of the new digital sets for consumers, relatively few new analog sets would be sold during the 2-4 month

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<sup>9</sup> See Comments of Philips at 4-5; Comments of CEA/CERC at 11-12.

period compared with the 290 million analog sets already in homes.<sup>10</sup> Any miniscule potential benefit to the DTV transition of a 2 month earlier deadline is dwarfed by the significant potential for serious harm to the transition if the first digital set families purchase is not as reliable as its earlier analog set and comes at a steep price increase. Furthermore, given that analog broadcasting will continue at least until 2009, a 2-4 month difference in imposing the tuner mandate is inconsequential. Throughout this period there will be competitive digital TVs available to consumers whether or not there is a requirement that every set have digital capability.

MSTV/NAB argue that an earlier deadline is needed because television sets with screen sizes below 25" constitute 23.9 percent of today's analog sets.<sup>11</sup> While this may be the number of such sets in homes today, *new* television purchases have gravitated toward larger sizes as prices have dropped. Even assuming that new sets would be sold in somewhat the same ratio as older sets, however, the figure shows that at least 76 percent of total sets, and probably much closer to 85 percent today, are covered by the tuner mandate without accelerating the deadline.

**B. The Date for Cessation of Analog Broadcasting Is Expected to be Changed to a Specific Date in 2009, Removing the Commission's Stated Rationale for an Unreasonable Last-Minute Acceleration of the Tuner Mandate Deadlines**

In 2002, the Commission adopted July 1, 2007, as the end date for all of the DTV Tuner Mandate deadlines. At that time, the Commission was empowered to end analog broadcasting on or after December 31, 2006, if 85 percent of viewers had access to the digital signals (whether

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<sup>10</sup> See Comments of the Consumer Electronics Association (CEA), MB Docket No. 04-210, *Inquiry Into Over-the-Air Broadcast Television Viewers* at 2 (Aug. 11, 2004).

<sup>11</sup> NAB/MSTV Comments at 4.

delivered over-the-air or by cable or satellite).<sup>12</sup> It is well-known, however, that most broadcast stations have delayed by one or more years their initiation of full-time, full-power digital broadcasts comparable to their analog broadcasts. Indeed, although NAB/MSTV claim that “broadcasters have made DTV service available in virtually every corner of the U.S.”,<sup>13</sup> even today, at this late date, relatively few broadcasters air a digital signal that fully replicates their analog coverage area. NAB/MSTV even concede that more than 11 percent of analog TV broadcast stations don’t air any digital signal at all.<sup>14</sup>

The Commission correctly understood that it was almost certain that the statutory goal of December 31, 2006, for ending analog broadcasts was most likely to pass without stations in any geographic area being required to shut down their analog operations. Against this backdrop, the Commission established a series of deadlines for DTV tuner requirements that end on July 1, 2007. Although attempts were made to establish a hard deadline of 2006 or 2007, it is widely known now that all the dates being considered by the Congress to end analog broadcasts are in 2009.<sup>15</sup> Therefore the Commission’s stated reason for proposing an acceleration of the DTV tuner mandate for 13”-24” television receivers – that all televisions should have DTV tuners no later than the end of the DTV transition<sup>16</sup> – has been eviscerated by the changing perspectives in the Congress roughly contemporaneous with and subsequent to the adoption of the FNPRM. The current date of July 1, 2007 for DTV tuners is at least 18 months before the first date being

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<sup>12</sup> See 47 U.S.C. § 309(j)(14).

<sup>13</sup> NAB/MSTV Comments at 2.

<sup>14</sup> *Id.* at fn.5.

<sup>15</sup> See, e.g., Communications Daily, August 8, 2005, at p.1.

<sup>16</sup> Report and Order at ¶¶s 2, 21.

discussed for a hard deadline ending analog broadcasts, rather than 6 months after the expected transition deadline. The March 1, 2007 date suggested by Philips is 22-34 months prior to the “hard” deadline for cessation of analog broadcasts likely to be adopted by the Congress within the next few months. Either the July 1, or March 1, 2007 date would be completely consistent with the Commission’s stated rationale, providing consumers ample time to make the switch to digital.

No manufacturer – including Philips – has ever argued for or requested a delay in the final July 1, 2007 date, even with the transition to digital now targeted for 2-3 years later than originally established. Not only is there absolutely no justification for accelerating the tuner deadlines now that the new timetable is apparent and recognized, but the many reasons not to do so as elaborated in the Comments explain why doing so would be detrimental to the DTV transition.

We note that in the *Report and Order* in this docket, the Commission itself recognized that it “makes little sense” to mandate a date that cannot be met by “the general population of manufacturers”:

It makes little sense to require products to be on the market before the general population of manufacturers can deliver them. As many commenting parties observe, if manufacturers were not able to meet our deadline, they might cease production of mid-range sets or switch to monitor products that do not include TV tuners. Such a result would be disruptive to our goal of ensuring that consumers are able to receive DTV signals and could even serve to delay the DTV transition.<sup>17</sup>

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<sup>17</sup> *Report and Order*, *supra* note 2 at ¶ 20.



The Commission should make the same finding with regard to the acceleration proposals now under consideration.

**C. A March 1, 2007 Deadline May Be Feasible for Television Sets, But Not For Associated Equipment**

In its Comments, Philips offered that the very earliest that it could meet a requirement on smaller sets would be March 1, 2007. CEA suggested the same date as the absolute earliest even remotely feasible.<sup>18</sup> However, it is simply impossible to accelerate the date for both television sets and associated equipment with tuners (such as VCRs and DVD recorders). While different manufacturers may have established a different schedule that makes this date more problematic, Philips reiterates that it could meet a March 1, 2007 deadline for television sets 13” and larger. We could not meet this date if all the associated devices were included as well.

While Philips disagrees that the final tuner deadline should be changed to December 31, 2006 or earlier, we do agree with broadcasters, including NAB/MSTV and the Walt Disney Company, that the tuner mandate should apply to all receivers, including those smaller than 13” that are intended to receive over-the-air broadcast signals. We do not include within this category display devices intended to receive video programs transmitted in any service other than traditional free, over-the-air broadcasting on DTV channels 2-51.

**III. CONCLUSION**

Accelerating the final DTV Tuner deadline at this late date in the fashion proposed by the Commission, on top of the four month acceleration adopted in June for mid-sized television sets, would exceed manufacturers’ capabilities and result in unacceptable risk to quality and

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<sup>18</sup> See Comments of CEA/CERC at 10.

reliability, unnecessary price increases for consumers, and reduced availability of some products on retail shelves. It would, as the Commission has found, make little sense to adopt a deadline that cannot be met by all major manufacturers.

Now that it is widely known that the dates being considered for the end of the analog transition are at least several years later than once thought, in 2009, there no longer is any rationale for accelerating the tuner deadlines. Nevertheless, Philips reaffirms that it is prepared to meet a digital integration requirement on 13"-24" sets of March 1, 2007, provided that the rule is adopted no later than this October and that the new deadline not apply to associated devices, such as DVD recorders and VCRs.

Respectfully submitted,

**PHILIPS ELECTRONICS NORTH  
AMERICA CORPORATION**



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Thomas B. Patton  
Vice President, Government Relations  
Philips Electronics North America Corporation  
1300 Eye Street, NW, Suite 1070 East  
Washington, DC 20005  
Tel: (202) 962-8550

Rick Dorl  
Vice President and General Counsel  
Philips Consumer Electronics North  
America, a division of Philips Electronics  
North America Corporation  
64 Perimeter Center East  
Atlanta, GA 30346  
Tel: (770) 821-3652

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